

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SHARON CHASE, as Administratrix of the  
Estate of NICOLE CARMEN,

Plaintiffs

-VS-

**AFFIDAVIT IN  
PARTIAL SUPPORT**

**Civil Action No. 14-cv-0474  
DNH/TWD**

CORRECTIONAL MEDICAL CARE, INC.,  
EMRE UMAR, JANE DOE NUMBER ONE, the  
screening nurse for decedent, Nicole Carmen,  
employed by Correctional Medical Care, Inc.,  
whose identity cannot presently be determined,  
JANE DOE NUMBER TWO, Head Nurse at the  
Schenectady County Jail, employed by Correctional  
Medical Care, Inc., whose identity cannot presently be  
determined, JOHN/JANE DOES 3-5, employees  
of Correctional Medical Care, Inc., whose identities  
cannot presently be determined, COUNTY OF  
SCHENECTADY, DOMINIC A. D'AGOSTINO,  
JIM BARRETT, and JOHN/JANE DOES 6-10,  
employees of the Schenectady County Sheriff's  
Department whose identities cannot presently be  
determined,

Defendants.

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STATE OF NEW YORK :  
: ss.:  
COUNTY OF ALBANY :

**JONATHAN M. BERNSTEIN, ESQ.**, being duly sworn, deposes and states:

1. I am an attorney at law duly licensed to practice in the State of New York  
and the United States District Court for the Northern District of New York and am a member of  
the firm of Goldberg Segalla LLP, counsel of record for defendants -- County of Schenectady,  
Dominic A. Dagostino, Jim Barrett, and John and Jane Does 6-10.

2. I submit this affidavit in partial support of plaintiff's motion to approve settlement of this action.

3. Defendants support plaintiff's motion for approval of the settlement in this action.

4. However, defendants deny all claims of liability or responsibility in any manner whatsoever. Defendants object to and dispute any factual contention in plaintiff's submission to the Court that attempts to place liability and responsibility upon defendants.

5. Other than the above, defendants have no objection to the settlement.

WHEREFORE, defendants and counsel respectfully request that the Court approve the settlement of this litigation.

  
JONATHAN M. BERNSTEIN

Sworn to before me this  
10<sup>th</sup> day of November, 2014.

  
Notary Public

**CAROL A. LIBERTUCCI**  
Notary Public, State of New York  
No. 01LI5077728  
Qualified in Montgomery County  
Commission Expires 5/12/2019

TO:

Elmer Robert Keach, III, Esq.  
Maria K. Dyson, Esq.  
Law Offices of Elmer Robert Keach, III, P.C.  
One Pine West Plaza, Suite 109  
Albany, New York 12205

Daniel R. Ryan, Esq.  
Phillip D. Dysert, Esq.  
Smith, Sovik, Kendrick & Sugnet, PC  
250 South Clinton Street, Ste. 600

Syracuse, NY 13202

Molly C. Casey, Esq.  
Kelly M. Monroe, Esq.  
Thuillez, Ford Law Firm  
20 Corporate Woods Blvd.  
3rd Floor  
Albany, NY 12211-1715

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Defendants.

---

**CERTIFICATE OF SERVICE**

I hereby certify that on November 17, 2015, I electronically filed the foregoing LETTER  
REQUEST with the Clerk of the Northern District Court using its CM/ECF system, which would  
then electronically notify the following CM/ECF participants on this case:

TO: Elmer Robert Keach, III, Esq.  
Maria K. Dyson, Esq.  
Law Offices of Elmer Robert Keach, III, P.C.  
*Attorneys for Plaintiffs*  
One Pine West Plaza, Suite 109  
Albany, New York 12205

Daniel R. Ryan, Esq.  
Bar Roll No: 513902  
Smith, Sovik, Kendrick & Sugnet, PC  
*Attorneys for Defendants, Correctional Medical Care, Inc. and Emre Umar*  
250 South Clinton Street, Ste. 600  
Syracuse, NY 13202

Molly C. Casey, Esq.  
Kelly M. Monroe, Esq.  
Thuillez, Ford Law Firm  
20 Corporate Woods Blvd.  
3<sup>rd</sup> Floor  
Albany, NY 12211-1715

And, I hereby certify that I have mailed the foregoing by the United States Postal Service,  
to the following participants:

N/A

/s/ Carol A. Libertucci  
Carol A. Libertucci  
Goldberg Segalla LLP  
8 Southwoods Boulevard, Suite 300  
Albany, New York 12211  
518-463-5400  
[clibertucci@goldbergsegalla.com](mailto:clibertucci@goldbergsegalla.com)

4293550

November 30, 2015

**VIA FedEx**

**Honorable David N. Hurd  
United State District Court - NDNY  
Alexander Pirnie Federal Building  
Room 300  
10 Broad Street  
Utica, New York 13501**

**Re: Chase / Carmen v. County of Schenectady**  
**Case No.: 14-cv-0474**  
**Our File No.: 13680.0005**

**Dear Judge Hurd:**

Goldberg Segalla, LLP, represents the County of Schenectady, Sheriff Dagostino and Jim Barrett.

Per our recent ECF letter motion, we requested permission to send this affidavit in support and opposition of settlement directly to chambers as plaintiff's papers were submitted under seal. Please accept the enclosed affidavit.

Respectfully submitted,

**Jonathan M. Bernstein**

**JMB/tdh**  
**Enclosure**  
**Copy to:**

**Elmer Robert Keach, III, Esq.**  
**Maria K. Dyson, Esq.**  
**Daniel R. Ryan, Esq.**  
**Phillip D. Dysert, Esq.**  
**Molly C. Casey, Esq.**  
**Kelly M. Monroe, Esq.**